

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

Confirmation No.: 5804

Ferdinand Hermann BAHLMANN et al.

Date: July 26, 2007

Serial No.: 10/522,426

Group Art Unit: 1654

Filed: March 25, 2005

Examiner: Thomas Sweeney Heard

For: **USE OF ERYTHROPOIETIN**

VIA EFS-WEB

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

RESPONSE TO RESTRICTION REQUIREMENT

Sir:

In the Office Action mailed in this case on June 29, 2007, claims 44-107 are subject to a restriction and to several species election requirements.

In particular, in accordance with 37 C.F.R. 1.499, the applicants are required to elect a single invention from among claim groups I - XII for continued prosecution in the present application. In response applicants elect, with traverse, Group III, which includes claims 46, 52, 53, 59, 65, 70 and 90 drawn to a method of wound healing.

In addition to the above, the applicants are further required (according to pp. 4-5 of the Office Action) to elect a single embodiment wherein all embodiments are particularly defined. In response to this requirement, the following species are elected:

a) route of administration: injectable. Claims 46, 52, 53, 70 and 90 are generic. No claim of Group III is directed specifically to the elected species.

b) pharmaceutical composition: aqueous solution. Claims 46, 52, 53, 59, 65, 70 and 90 are generic. No claim of Group III is directed specifically to the elected species.

c) further active ingredient: none is required. Where present, applicants elect HMG-CoA reductase inhibitor. Claims 46, 52, 53, 59, 65, 70 and 90 are generic. No claim of Group III is directed specifically to the elected species

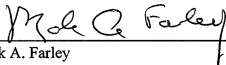
d) EPO: human erythropoietin, wherein the erythropoietin is a derivative. Claims 46, 52, 53, 59, 65, 70 and 90 are generic. No claim of Group III is directed specifically to the elected species.

CONTINGENT EXTENSION REQUEST

If this communication is filed after the shortened statutory time period had elapsed and no separate Petition is enclosed, the Commissioner of Patents and Trademarks is petitioned, under 37 C.F.R. § 1.136(a), to extend the time for filing a response to the outstanding Office Action by the number of months which will avoid abandonment under 37 C.F.R. § 1.135. The fee under 37 C.F.R. § 1.17 should be charged to our Deposit Account No. 15-0700.

Respectfully submitted,

THIS CORRESPONDENCE IS BEING
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Mark A. Farley
Registration No.: 33,170
OSTROLENK, FABER, GERB & SOFFEN, LLP
1180 Avenue of the Americas
New York, New York 10036-8403
Telephone: (212) 382-0700

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